REMARKS

This Response is to the final Office Action of February 17, 2009 and the Advisory Action of April 24, 2009. Claims 1 and 14 have been amended. New claims 31 and 32 have been added. No new matter has been added by the amendments or new claims. Applicants submit herewith a Request for Continued Examination. Please charge Deposit Account No. 02-1818 for the Request for Continued Examination and any other fees due in connection with this Response.

In the Office Action, claims 1 and 14 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the Office Action asserts that:

(1) Claims 1 and 14 are indefinite because the meaning of the second server "separated" from medical device and the terminal device is unclear. Page 3, paragraph number 6 of the Office Action asks:

> Do the first and second servers communicate via a second network or is the second server a part of the first server? Does "separated" simply mean that the same network that connects the first server to the medical and terminal devices is used but that a firewall exists between those devices and the second server?

(2) Claim 1 has additionally been found to be indefinite because:

(a) it is unclear where the message generated by the second server is sent; and

(b) it is unclear what initiates the message generated by the second server.

(3) Claim 14 has additionally been found to be indefinite because:

(a) it is unclear where the response message is sent; and

(b) it is unclear what initiates the message generated by the second server.

Regarding (1) above, Applicants have amended claim 1 to include the second server separated from the medical device and the terminal device, "via the second network, the first server, and the first network." Similarly, Applicants have amended claim 14 to include the second central computer separated from medical device via, "the second network, the first server, and the first network." Applicants have made these amendments merely to clarify the claimed invention and not to overcome any art of record. Applicants submit that one of ordinary skill would understand how the second server and second central server are separated from the medical device and the terminal device of presently presented claims 1 and 14 when read in light

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of Applicants' specification. For example, FIG. 3, reproduced below, and the accompanying text of Applicants' specification show and describe an embodiment of claims 1 and 14 as presently presented including a second server 108a separated from the medical device and the terminal device via the second network 103, the first server 109, and the first network 102.
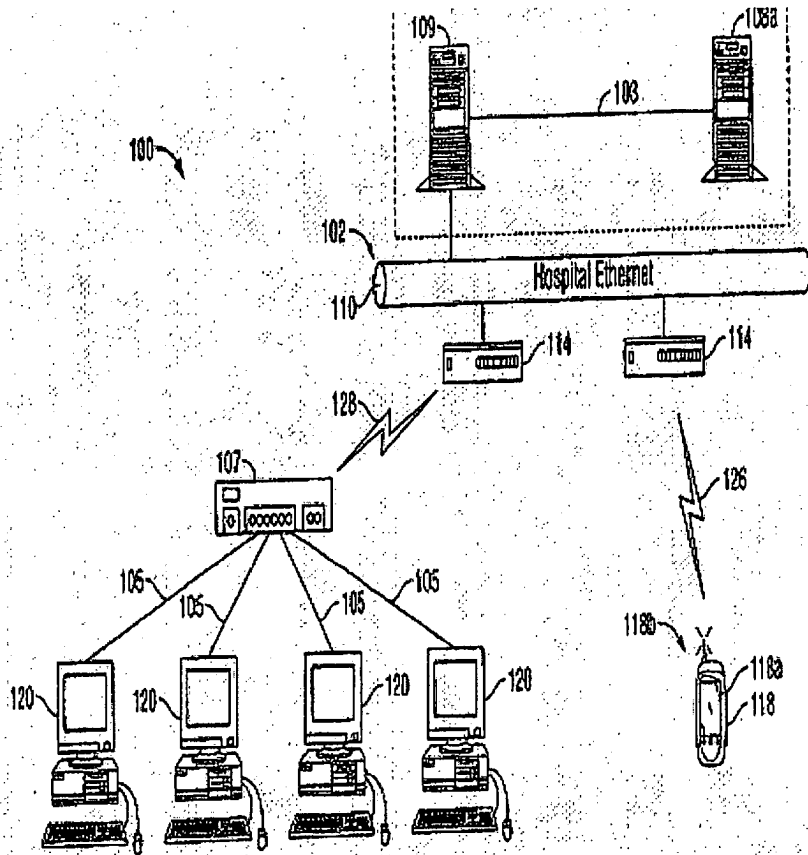
More specifically, regarding the second network, paragraph [0095] of Applicants' pre-grant publication, quoted in part below, describes FIG. 3 and the separation of the second server 108a as:

> The central system 108 can include a first central server or computer 109 and a second central server or computer 108a. In one embodiment, a separate communication system 103 may be provided for communication between the first central server 109 and the second central server 108a. In one embodiment, a separate communication system 103 may be provide for communication between the first central server 109 and the second central server 108a. In a preferred embodiment, the separate communication system 103 is an isolated point-to-point cable communication Ethernet network.

In view of at least this disclosure and the above clarifying amendments, Applicants submit an artisan of ordinary skill would understand how the second server and second central computer are separated from the medical device and the terminal device of claims 1 and 14 as presently presented.

Regarding (2)(a) above, Applicants have amended claim 1 to include, "the response message is sent to at least the terminal device."

Regarding (2)(b) above, Applicants have amended claim 1 to include, "the message generated at least in part upon a request from one of: (i) a request from the first server; and (ii) automatically."

Regarding (3)(a) above, Applicants have amended claim 14 to include, "wherein the response message is sent over the first network to at least the terminal device."

Regarding (3)(b) above, Applicants have amended claim 14 to include, "the response message generated at least in part upon a request from the second central computer."

Applicants have made the amendments discussed in (2)(a), (2)(b), (3)(a) and (3)(b) above merely to clarify the claimed invention and not to overcome any art of record.

In view of the amendments and reasons given above, Applicants submit that claims 1 and 14 as presently presented are definite. Applicants accordingly respectfully request that the rejections under 35 U.S.C § 112, second paragraph, be reconsidered and withdrawn.

In the Office Action, claims 1 to 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publicatioin 2002/0038392 to De la Huerga ("*De la Huerga*") in view of U.S. Patent No. 6,980,958 to Surwit et al. ("*Surwit*") in view of U.S. Patent Application Publication 2003/00078808 to Ng ("*Ng*"). In view of the amendments and reasons given below, Applicants respectfully traverse this rejection.

Regarding the rejection of independent claim 1, claim 1 as presently presented is directed to a system including, in part, a terminal device attached to a first network and comprising a visual display; a medical device attached to the first network, a communication initiated by the medical device and transmitted over the first network, the communication comprising at least one of status information and programming information for the medical device, a first server attached to the first network, *the first server storing validated data*, a second server in communication with the first server via a second network, *the second server storing non-*

validated data, wherein the medical device and the terminal device communicate with the first server, and wherein the second server is separated from the medical device and the terminal device via the second network, the first server, and the first network.

The presently claimed system including the feature of *a first server storing validated data*, and *a second server storing non-validated* data provides cost-effective integration of medical devices and their functionality with hospital information systems in the first and second servers. For example, in one embodiment of the system of claim 1 as presently presented, validated information on the first server includes infusion pump generated alarms or medical device programming or operating parameter information, while the remaining portion of the overall data is maintained in the non-validated second server. Separating the validated and non-validated information on a first and second server enables third-party systems and the respective data therein to be easily integrated on a timely and cost effective basis. See, for example, paragraph [0104] and [0105] of Applicants' pre-grant publication. Applicants respectfully submit that *Ng*, *Surwit*, and *De la Huerga* do not teach at least this feature of presently presented claim 1. That is, Applicants respectfully submit that *Ng*, *Surwit*, and *De la Huerga* do not disclose or suggest a system of claim 1 including a first server storing validated data, and a second server storing non-validated data.

Further, Applicants respectfully submit that would not have been obvious to modify *Ng*, *Surwit*, and *De la Huerga*, to include the combination of a terminal device attached to a first network and comprising a visual display, a medical device attached to the first network, a communication initiated by the medical device and transmitted over the first network, the communication comprising at least one of status information and programming information for the medical device, a first server attached to the first network, the first server storing validated data, a second server in communication with the first server via a second network, the second server storing non-validated data, wherein the medical device and the terminal device communicate with the first server, and wherein the second server is separated from the medical device and the terminal device via the second network, the first server, and the first network, without reasonably being construed as impermissible hindsight reconstruction.

For at least these reasons, Applicants submit that independent claim 1 as presently presented, and claims 2 to 13 and claim 31, which depend from claim 1, are patentably distinguished over *De la Huerga*, *Ng* and *Surwit* and in condition for allowance.

Independent claim 14 includes similar elements to independent claim 1. Accordingly, for at least the reasons given above with respect to claim 1, Applicants respectfully submit that claim 14, and dependent claims 15 to 28 and 33, are also patentably distinguished over *De la Huerga*, *Ng* and *Surwit* and in condition for allowance.

Additionally, Applicants respectfully reiterate and incorporate the arguments presented in the Response to Final Office Action dated April 17, 2009. Applicants respectfully submit that the claimed system does not neatly fit into the category of invention in which a rationale of a mere combination of "old elements," or a simple substitution of one element for another is a proper basis for maintaining an obviousness rejection.

In this case, Applicants submit that one of ordinary skill in the art would not combine the teachings of *De la Huerga* with *Ng*, and *Surwitt* as suggested by the Office Action to arrive at the system of claim 1. Page 6 of Office Action admits that *De La Huerga* fails to teach, "a second server and that the medical device routs status messages to the terminal devices through the server," stating:

> *Ng* teaches medical devices (Fig. 3. ele. 20a-20c) and terminal devices (Fig. 3, ele. 44a-44d) connected via a network (Fig. 3, ele. 12, 14, 30 and 40) to a first server (Fig. 3, ele. 34; and Fig. 4, ele. 34) which is connected to a second server (Fig. 4., ele. 48) in such a way as to rout all communication between either the medical or terminal device and the second server through the first server. Furthermore, Surwit et al. teaches remote patient monitors and physician access terminals connected to a server through a network wherein patient status information is sent from the patient monitor to the server to the server and from the server to the physician's terminal upon request.

Regarding the proposed combination of *De la Huerga* and *Ng*, *De la Huerga* is generally directed to:

> A method and apparatus for controlling an infusion pump. The system includes providing information tags on IV bags that specify delivery parameters, obtaining delivery parameters for at least one bag, associating a controller with a particular patient, comparing patient information for the particular patient with the delivery parameters, determining the efficacy of delivering the medicant to the patient and affecting pump control as a function of the comparison. See, Abstract.

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The system of *De la Huerga* obtains patient information for the particular patient and compares the patient information to delivery parameters and, "affects pump control as function of the comparison." *Ng*, in contrast, generally discloses a tracking system for use in the blood collection industry. In one embodiment of *Ng*, the system includes a central server 48. The Office Action suggests that it would be obvious to include the central server 48 taught in *Ng* with the method of controlling the infusion pump taught by *De la Huerga*. It is unclear how, or why, an artisan of ordinary skill would make such a modification to the method of controlling an infusion pump of *De la Huerga* and the Office Action does not provide any such reasoning. In particular, it is unclear why *De la Huerga* would include a second server that generates a message and transmits that message over a second network to the first server and over the first network to at least a terminal device. For these reasons, the Office Action appears to be relying on Applicants own disclosure in an impermissible hindsight attempt to piece together Applicants' claimed invention.

Surwitt does not remedy the deficiencies of *De la Huerga* and *Ng*. *Surwitt* was relied upon primarily for the teaching of a message including patient information. See, Office Action page 6. Regardless of whether *Surwitt* teaches a message including patient information, Applicants respectfully submit that the combination of *De la Huerga*, and *Ng* is improper and thus the combination of *De la Huerga*, *Ng*, and *Surwitt* is also improper.

For at least these additional reasons, Applicants submit that independent claim 1 and claims 2 to 13 which depend from claim 1 are patentably distinguished over *De la Huerga*, *Ng* and *Surwit* and in condition for allowance.

Independent claim 14 includes similar elements to independent claim 1. Accordingly, for at least these additional reasons given above with respect to claim 1, Applicants respectfully submit that claim 14 and dependent claims 15 to 28 are also patentably distinguished over *De la Huerga*, *Ng* and *Surwit* and in condition for allowance.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same. Applicants kindly request that should the Examiner have any questions regarding this Response or wish to discuss the amended claims, the Examiner contact Applicants' representative.

Respectfully submitted,

K&L GATES LLP

BY _Robert L. Connors_

Robert W. Connors
Reg. No. 46,639
Customer No. 29200

Dated: May 18, 2009

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